



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL**

December 5, 1975

The Honorable Bevington Reed
Commissioner
Coordinating Board
Texas College and University System
P. O. Box 12788, Capitol Station
Austin, Texas 78711

Opinion No. H-746

Re: Obligation of junior colleges
to set aside a portion of tuition
charges as Texas Public Educational
Grants.

Dear Dr. Reed:

You have requested our opinion regarding the obligation of junior colleges to set aside a portion of tuition charges as Texas Public Educational Grants. Section 56.033 of the Texas Education Code provides as follows:

The governing boards of institutions of higher education shall cause to be set aside for use as Texas Public Educational Grants twenty-five cents out of each hourly charge in Subsection (b), \$1.50 out of each hourly charge in Subsection (c) of Section 54.051 of this code, as amended, and six percent of hourly tuition charges for vocational-technical courses at public community and junior colleges.

You ask: 1) whether public community and junior colleges are required to set aside from tuition charges for vocational-technical courses both the designated six percent and also the specified fixed amount; and 2) whether funds must be set aside regardless of whether there is state funding for the course.

Section 54.051(m) of the Education Code contains a similar provision to that of section 56.033, except that it makes no specific reference to vocational-technical courses at public community and junior colleges. In Attorney General Opinion M-1129 (1972), this Office held that section 54.051(m) was applicable to vocational-technical courses at public junior colleges, even though such courses are not generally equated in terms of semester credit hours. The Opinion devised a mathematical formula for computation of the amount to be withheld for vocational-technical courses.

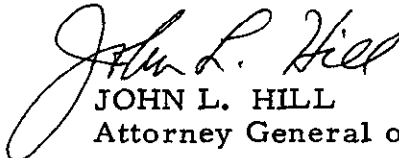
We believe that the Legislature, by its particular reference to vocational-technical courses in section 56.033, intended to supply that mathematical formula and avoid the imprecision of section 54.051(m), by making specific its intention to include these courses within the ambit of those from whose tuition charges certain amounts are to be set aside. There is no basis for concluding that the Legislature intended to authorize a greater deduction for vocational-technical courses by requiring the withholding of both the designated six percent and also the specified fixed amount.

As to your second question, it is our opinion that the presence or absence of state funding for the particular vocational-technical course is immaterial to the question of whether "six percent of hourly tuition charges" must be set aside. The statute draws no distinction in this regard, and it appears to be mandatory.

SUMMARY

Public community and junior colleges are required to set aside from tuition charges for vocational-technical courses only the six percent designated in section 56.033 of the Texas Education Code. Such funds must be set aside regardless of whether there is state funding for the course.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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